

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FORT SMITH DIVISION

DARRELL WAYNE WISE

PLAINTIFF

v.

Civil No. 05-2132

MICHAEL OGLESBY;
LARRY CLARK; WAYNE
THOMPSON; and BILLY RYAN

DEFENDANTS

REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Before the undersigned for report and recommendation is the plaintiff's motion for summary judgment motion (Doc. 47). Defendants' responded to the motion (Doc. 50) and plaintiff filed a reply brief (Doc. 52).

By report and recommendation entered on February 16, 2007 (Doc. 41), the undersigned recommended, among other things, that the defendants' be denied summary judgment on plaintiff's claim that he was denied adequate medical care while detained at the Polk County Detention Center. The report and recommendation was adopted on March 7, 2007 (Doc. 42).

The February 16th report and recommendation contains a detailed review all exhibits submitted to the court, the plaintiff's requests for medical care, the treatment he received, and the arguments made by the parties. In his current motion for summary judgment, plaintiff has advanced no new facts for the court's consideration. Instead, he merely makes the argument he is entitled to judgment in his favor as a matter of law on this claim. Upon careful review of the exhibits previously submitted, the plaintiff's response to the defendants' summary judgment motion, and the plaintiff's current summary judgment motion, the court believes there are

genuine issues of material fact that preclude summary judgment in the plaintiff's favor on the denial of medical care claim. I therefore recommend that the plaintiff's motion for summary judgment (Doc. 47) be denied.

The parties have ten days from receipt of the report and recommendation in which to file written objections pursuant to 28 U.S.C. § 636(b)(1). The failure to file timely objections may result in waiver of the right to appeal questions of fact. The parties are reminded that objections must be both timely and specific to trigger de novo review by the district court.

DATED this 22nd day of May 2007.

/s/ *J. Marszewski*
HON. JAMES R. MARSZEWSKI
UNITED STATES MAGISTRATE JUDGE